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C.F. 66 (a) - 14,824 - 17-12-21.

Department of *LR and Sett*

OFFICE *of the Board of Revenue*

STATION *Madras*

File No. 44

Dated *6/1/23*

B 4948

To whom sent

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Pages in the file

(SUBJECT.)

Escheat (S. Kanara) Appinagadi T/R
Mani Miao - S. No. 38/5 - Maneriappa
property - orders passed.

Ref.on No.V-3-1168-22.

South Kanara Collector's office,
Mangalore, 9th December 1922.

From

M.R.Ry. Rao Bahadur S.N.V. Rajachar, Avl. B.A.,
Collector of South Kanara

To

The Secretary to the Board,
Land Revenue, Madras.

Sir,

Escheat - Uppinangadi Taluk - Mani village - S.No.39/5
(Deceased Muniappa).

One Muniappa, a Balegar by caste, who was governed by the Hindu Law of succession and who owned S.No.39/5 of Mani village is said to have died about 11 years ago without ---- leaving any heirs. .

2. He appears to have left his village more than ---- 30 years ago. His land was then taken possession of by --- Maji Shankara Bhatta an adjoining pattadar who has been ---- paying its assessment to Government for the last 30 years (---) has been enjoying it through his tenant Damodara Poi.

3. As there were no heirs to Muniappa, my predecessor declared the land escheat and called upon both Shankara ---- Bhatta and Damodara Poi to surrender it to Government. The former refuses to surrender the land unless he is paid ----- Rs.125/- for the improvements effected by him and the latter also declines to give up the land without obtaining Rs.145/- for his improvements.

4. According to the genichit dated 16th August 1920 - executed by Damodara Poi, he is precluded from making any -- improvements without the written consent of his landlord --- Shankara Bhatta. Whether any written consent had been ---- obtained by Damodara Poi is not known. Evidently it was -- not obtained, but Shankara Bhatta's private Shanbhogue says that the improvements made by Damodara Poi were effected --

with the consent and at the instance of Shankara Bhatta. The Government Pleader, Mangalore is of opinion that ----- Damodara Poi having specifically contracted not to claim -- any value for the improvements, the Courts will not award - anything to him as compensation for them.

As regards Shankara Bhatta, the Government Pleader, says that he is entitled to the value of his improvements, if he honestly came in possession of the land in the bona fide belief that it formed part of his warg. For this --- views he relies on 29 M.L.J.357 & 32 Mad.530. There the - question was of a bona fide alienee, but here Shankara ---- Bhatta is not an alienee but a mere trespasser. He did -- not even believe that the land was his; for in his state- ments dated 10th September 1918 and 16th March 1919 he has said that he occupied the land as it was contiguous to his patta land and that he has no title to it except that of -- long enjoyment. Hence I think that neither Shankara Bhatta nor his tenant is entitled to any compensation.

5. I, therefore, propose to file a suit against them both for the recovery of the plot. The plaint prepared by ⁹ the vakil usually employed on behalf of Government at Puttur and approved by the Government Pleader, Mangalore is sub- mitted herewith. In it the mesne profits have been claimed for only 3 years following the Madras High Court ruling --- reported in 1915 M.W.N.692.?

6. The plot in question is a settlement subdivision classed as bagayat and measuring 0.31 cents. The ----- Tahsildar values the land alone at Rs.15/8 and the improve- ments at Rs.85/- of which those made by Damodara Poi are -- valued at Rs.56/- and those made by Shankara Bhatta at Rs.13/- The improvements estimated at Rs.16/- are reported to have existed on the land before it came into the possession of - Shankara Bhatta. Damodara Poi is willing to give for the land with improvements Rs.200/- if he is allowed a set off of Rs.145/- claimed by him as the value of his improvements.

7. The records noted in the margin are enclosed for ----- the Board's --

1. Dis file 3814-21 D of this office.
2. One current file (pp.103).

reference.

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C 25

Between

The Secretary of State for India Plaintiff
in Council }

and

Shankara Bhatta and another Defendants.

Plaint under Section 26 of the Civil Procedure Code.

The abovenamed Plaintiff states as follows:-

I. Plaintiff is the Secretary of State for India in Council. His address for service of all processes is the Collector's office, Mangalore.

II. 1st Defendant Shankara Bhatta is the son of Maji Muthu Bhatta and is a land holder residing in Virakhamba -- village.

2nd Defendant Damodar Poi is the son of Narayana Poi and is a cultivator residing in Mani village.

III. (1) One Muniappa who was the last owner of the -- immoveable property described below and who was governed by the ordinary Hindu Law of succession is said to have died - about 11 years ago without leaving any heirs and the ----- property has, in consequence, escheated to Government.

(2) The 1st Defendant who has been in wrongful ----- possession of the property through his chalgeni tenant, the 2nd Defendant, as well as the latter, were called upon to - surrender the property to Government but they decline to do so on frivolous excuses. Hence the suit.

(3) The Defendants have no right whatever to the --- property and are bound to surrender it to the Plaintiff. The 2nd Defendant is at liberty to remove the superstructure of the thatched building constructed by him thereon.

(4) The cause of action for this suit has arisen --- since about 1911 in Mani village within the jurisdiction of this court.

IV. The subject matter of this suit for purposes of jurisdiction and court fees is valued at Rs.19-14-0.

V. Plaintiff, therefore, prays for a decree and --- judgment against the Defendants for

(1) Possession and delivery of the property described below - the same being valued at 10 times its ----- assessment of Rs.0-15-0 Rs. 9- 6-0

(2) Mesne profits of the property for the past three years (1919-20 to 1921-22) at Rs. 3-3-4 per annum Rs. 9- 0-0

(3) Mesne profits of the current year till this date Rs. 1- 8-0

Rs.19-14-0

(4) Costs of this suit with interest at 6 per cent and (5) future mesne profits from this date at the ----- aforesaid rate and such other reliefs as the Plaintiff may be found entitled to under the circumstances of the case.

[Signature]
12/12/22
For Collector.

As

11/3
9.12.22

*Escheat (S.Kanara) - Uppinagadi Tk -
Mani Village - S.N.O. 39/5 - Muniappa's
Property - orders passed.*

B4 94 8/22 - G

*Res (Res) 44
6.1.23*

*The Board considers that the
whole matter may be dropped.*

*To 10
28/12/23
The Collr of S.Kanara with
records returned*

[Signature]

Escheat (S. Kanara) - (Appraised)
TK - Main Village - S.N. 29/5 - Munni-
appa's property.
AS (H.A.)
S
M.

B 4 94 8/22

para 3 at p 10f. The coll. has declared the property in question escheat. The owner Munniappa died only 11 years ago but the property has been in the adverse possession of two others for the past 30 years. It is in the first place doubtful if it could be escheated. At the time of the death of Munniappa the man in adverse possession had probably by such possession (of over 12 years) acquired ownership and it cannot therefore be said, with certainty, that Munniappa was the owner when he died.

para 6 at p. 20f. 2. The land and the improvements are estimated at Rs 100-8-0. The improvements have been made by the parties against whom it is proposed to file a suit & whatever the rights of Govt may be, they have, it seems, no moral ~~rights~~ claims to the value of improvements. Leaving this therefore ~~over~~ out of account, the land is worth Rs 10/8/0. and it is a question for consideration ~~that~~ whether

Govt should sue for the paltry sum;
~~Perhaps~~ ^{advised} the Collr may be
~~addressed~~ to drop the matter.

21/2/12 The last owner has not been heard of since
1892. Under Sections 107 and 108 of the Evidence Act p 27
a presumption arises that he ~~is~~ died in the interval between 1892-1922
though this may be rebutted by evidence. According
to the Collr the man is reported to have died 11 years
ago i.e. 1911. The trespasser has been in adverse
possession since 1892. And under Art 144 of the p 503
Limitation Act, ^{The rightful owner} has lost his right to recover the land &
The trespasser therefore seems to have perfected his
title to the land in 1904 i.e. during the lifetime of the
true owner. In this view the trespasser has
become the legal owner and there is no case of Escheat.
The Collr may be asked to clean up this point.

10/12/12 3.1.23 22/2/23 The value of the land in view
the improvements effected by the present
occupants is petty. The issue of
the suit is doubtful & if we lose,
the costs will be at least equal to
what we should gain if we win. The
whole matter may be dropped: or in
the alternative the Collr may be told
to close with the offer mentioned in
the last sentence of para 6 of his letter.

grs.
it would
moreover be
inequitable for
govt. to take
the land now.
mes
5.1.23.

17/3
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Draft Subm'd 5.1.23